

BV-044-15-05

Applicant's Responses to Comments

From: Frank [<mailto:frank@gaddysurveydesign.com>]

Sent: Friday, January 29, 2016 5:14 PM

To: Berry, Michael

Cc: Fred Milani

Subject: RE: Table for echo lake

Mr. Berry,

Fred Milani and I submit the following responses to the citizen interrogatories for the shoreline stabilization project for 2267 Echo Trail. We successfully received an authorization letter dated: Jan. 21, 2016 from the Corps of Engineers for compliance with Nationwide Permit No. 13 for the gabion Basket placement along the shoreline at Echo Lake. This was the only significant issue from the public comments received by GA DNR during the public comment period. I am enclosing a copy of the verification letter from the Army Corps of Engineers for your use.

Sheet 1, 24, 25, and 26 of the response to interrogatories are blank due to the manner in which the Word document was formatted by GA DNR – no comment or response are on these sheets – they are included for consistency with the original transmitted documents.

If any additional information is needed, please contact either Mr. Milani at (404) 597-4322 or myself at (678) 873-0391.

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<p>1) The applicant's rationale for installing a seawall is invalid.</p> <p>A) The rationale for build a seawall to stabilize the state water buffer is fallacious because the applicant intentionally destabilized the streambank by stripping the entire 25-foot state buffer of more than 20 specimen and other mature trees, understory vegetation, and soil over the last 2 years, removing and grinding numerous stumps on the lakeshore and lakebed using heavy equipment, killing the remaining vegetation with herbicides, and regrading, disturbed, and removing soil along the lakeshore and lakebed (See attachment 2267EchoTrailPhotos). Indeed, the applicant's water buffer "restoration plan" is patent admission that his intentional clear cutting harmed the buffer's soil and vegetation that provides natural protection to water quality and habitat, including lakeside shade essential for fish. Seeking to mitigate a problem that he intentionally created is consistent with the legal principle of "invited error" in which a party is seeking a remedy to a problem that he induced (See http://definitions.uslegal.com/i/invited-error/)</p> <p>B) Because the applicant patently violated state and/or county water buffer regulations and the county tree ordinance (that restricts removal of trees in buffer and specimen trees (http://planningdekalb.net/wp-content/uploads/2013/11/Residential-Site-Plan-CheckList.pdf), DeKalb County's legal department has previously demanded a mitigation plan that involves replacing many of the destroyed trees. (See attachment DeKalbLegalRulingReplanting regarding county legal department's request for replanting. Consult DeKalb legal dept for additional files on this matter that cannot be shared with public citizens.) Mr. Andrew Baker, Director of DeKalb County Planning and Sustainability Department, confirmed in a phone conversation with an ELHA member on October 13, 2015 that the county could continue to demand this mitigation plan even if EPD denied the variance.</p>	<p>1-A)</p> <p>This is an untrue statement. The only equipment that has entered the 25-foot tributary buffer was for the purpose of removing trees that had died and fallen into the lake and across the floating dock. These trees either died from damage inflicted by beavers or were in the lake prior to applicant acquiring the property. The county arborist, Mr. Greg Hubbard, inspected and allowed the trees and stumps to be removed. The only vegetation that has been removed was undesirable evasive plants and vines (English ivy, poison ivy & privet) by hand only. Applicant has maintained property BMP's during prior house construction and has never been issued a violation from DeKalb County in spite of a multitude of site inspections generated by complaints to DeKalb County from property owners around the lake. No specimen trees (as defined by DeKalb County's Environmental Ordinance) have been removed from the rear of subject property.</p> <p>1-B)</p> <p>No citation or written correspondence has ever been received for this property in regards to unauthorized tree removal from any individual or department at DeKalb County. Please note that the e-mail references conversations and potential actions of the county law department that are based on unfounded complaints by neighbors attempting to gain support from county commissioners while attempting to deny property rights and constitutional protection afforded to the applicant. Many phone conversation have occurred between the property owner and the Planning & Development Director, Mr. Baker, after repeated harassments by neighbors. All trees removed at this property have been completed as a result of the original Site Development Approved Plan or after building completion and occupancy as a result of a physical assessment of the tree's health by the county arborist and within the guidelines of the county ordinance allowing 5 trees to be removed per year.</p>

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<p>2) The applicant's rationale for seeking a seawall to restabilize the water buffer is fallacious.</p> <p>A) The applicant, a real estate developer, and opinions of his business associates, surveyor Frank Gaddy and landscape architect Lamar Adams, have failed to demonstrate that this lakeshore is vulnerable to erosion from persistent wave action that is fast enough to wrest or erode vegetation and tree roots along the lakeshore (e.g. more than 10 feet/second). Such regular, high-speed wave action is typically found in fast flowing streams or caused by motor boats, and these conditions do not exist in Echo Lake. In fact, the average water level of Echo Lake is only ~ 5 feet deep due to decades of accumulated sediment descending from unregulated developments (that did not comply with required silt fences, retention ponds and other erosion controls) situated on steep hills above the south side of the lake. Although Echo Lake is not a marsh, its water flows very slowly. The lake surface is virtually waveless except for rare heavy storms when water flow increases for a few minutes or hours. The lake suffers from little wind because it is situated in a natural "hollow" that is rimmed by acres of steep slopes, homes, and woodland. Gas-powered motorboats are not allowed (except during the water quality inspection firm's biannual inspection); electric-powered fishing boats and canoes do not generate wakes. The attached photographs confirm that the property adjacent to 2267 Echo Trail has had a stable shoreline that supports deep, healthy vegetation to the water's edge for decades, a strong soil matrix, and excellent water absorptive capacity. (See Powerpoint attachment EchoLakeShorelineTrees)</p>	<p>2-A)</p> <p>Site inspections by E.P.A., Army Corps of Engineers and DeKalb County staff have confirmed the existing shoreline deterioration around Echo Lake. Approximately one-third of the properties adjoining Echo Lake have some type of walls along the shoreline. Many other properties have received stone under the County Citizen's Assistance Program administered by the DeKalb County Roads & Drainage Department. Please note that complainant is not aware of the history of this water basin. The majority of the silt that continues to enter Echo Lake is from the dam breach of Simmons Lake (behind Lakeside High School that occurred in the early 1970's). Sediment from this original lake bed continues to fill Greely Lake (now barely visible) and Echo Lake on the opposite side of Briarcliff Road from Greely Lake. The Echo Lake Homeowners Association has dredged the sediment from Echo Lake twice in the past 10 years and are scheduled to dredge the lake again within the next year.</p>

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<p>B) Gaddy falsely claims that two chain link fences adjacent to the applicant's property extend over 7 feet past the shoreline towards the center of the lake, that these fences were originally installed only to the lake edge, and that the gap to the distal end of the fence represents the area of erosion of the lakeshore. In fact, during the mid-1990s, the high water level of Echo Lake was intentionally re-set at a lower level established by DeKalb County officials during their reconstruction of this spillway dam to reduce flooding risk to nearby homes. (Consult archived county construction document that ELHA members were unable to obtain.) Due to this re-set, the dry edge of all lakeside properties immediately receded from the center of the lake by several feet. This recession was not the result of erosion, persistent high speed wave action, unstable soil, or beaver-damaged trees along the lakeshore.</p> <p>C) Gaddy falsely claims that "the shoreline has washed out and moved an estimated five feet into the lots surrounding the lake. The horizontal movement of the lake edge due to erosion may be as much as fifteen feet at the steepest area adjacent to the lake." In fact, the accumulation of soil at the lakeshore is a direct result of extensive erosion and sedimentation from the applicant's steep lakeshore slope that started <u>after</u> he clear cut the lakeshore. EPD's manual, Streambank and Shoreline Stabilization – Techniques to Control Erosion and Protect Property, states that "clearing natural vegetation to expand views or recreational areas destroys roots of plants that provide significant shoreline stabilization. Construction uphill of a bank can increase stormwater runoff, resulting in increased pollutant and sediments loads to the water body. Pavement, buildings, roofs [such as that of the applicant's home that exceeds 5000 square feet and has a long, steep concrete driveway) increases the amount, velocity, and energy of stormwater, resulting in runoff being routed to streams and lakes (and less in the ground) and increasing erosion." EPD's manual notes that trees and vegetative cover are the most effective method to prevent water and wind erosion on steep slopes. Other factors that have reveal more silt and soil at the lake's edge include natural fluvial redeposition of the accumulated sediment and dredging spoils from the southern lakeshore (that has affected the entire lakeshore) and exposure of the previously submerged lakebed after the water level re-set described above.</p>	<p>2-B)</p> <p>This is an untrue statement. The water level was lowered on Echo Lake when the roller compacted concrete dam was installed. This should result in the water surface moving away from the ends of the fences (not into the lots as stated in this complaint). The dam was re-built due to a failed inspection of the Category I Dam by the Safe Dams Division of GA EPD and had nothing to do with reduction of flooding on homes surrounding Echo Lake.</p> <p>2-C)</p> <p>This is an untrue statement. The location of the water surface from a survey prepared by Gaddy Surveying & Design, Inc. (GSD) prior to house construction coincides with the survey information for the shoreline stabilization project prepared by GSD, after completion of the new hose construction. A physical examination of the existing trees along the lake edge is sufficient to disprove this allocation. Complainant unintentional provides testimony supporting shoreline stabilization by stating an estimate of 15-feet of property loss at the extreme slope bordering the lake. All appropriate BMP's and Water Quality devises were installed for building construction. All areas during house construction have been stabilized with either permanent ground cover or mulch. The existing slopes within the county 75-foot tributary buffer have been maintained.</p>

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<p>D) Gaddy's claim that seawalls on other lakeside properties were installed to stabilize the shoreline erosion is incorrect. In fact, they were installed several years ago (before introduction of the state's current water buffer regulations) to sequester dredging spoils that were never removed from the lake during the 1960s-1970s and/or to aid boat entry. The applicant has not demonstrated that installation of the seawall and the restoration plan would result in maintained or improved water quality compared to the quality of the water before the applicant clear cut the lakeshore. In fact, the mitigation plan proposes planting of large expanses of sod along the lake edge that would discharge fertilizers and pesticides into the lake, cause algal blooms, and harm water quality, flora and fauna (See www.uvm.edu/~vlrs/doc/lawnfert.htm)</p>	<p>2-D) This complaint whether true or false concerning the reasons individual homeowners installed walls along the shoreline is irrelevant. Applicant is seeking to stabilize the erosion on his portion of the shoreline, similar to action taken in the past by other property owners. Applicant has simply followed the law in requesting approval from GA EPD.</p>
<p>E) Claims by Gaddy and Adams that beavers have girdled trees that, in turn, have caused bank erosion, are spurious. Gaddy states "Over the years, native beavers have damaged the existing pine trees along the shoreline by eating the wood at the base which has resulted in a majority of the pine trees to lean over the surface of the water in Echo Lake, and in some cases, the tree have uprooted and fallen into the lake. The result of beaver damage to the pine trees has caused the shoreline to lose its integrity in several places which in turn has caused sediment to migrate into the lake." Although this lake has seen beaver activity during its history, significant beaver activity has not been apparent since the applicant purchased this property, partly due to increased sedimentation and turbidity from silt descending from developments above the southern shore, increased light and noise pollution from Briarcliff Road, and more favorable habitat below the lake's dam on a protected stretch of the N. Fork of the Peachtree Creek. Even if Adams was merely noting evidence of past beaver activity, it would be virtually impossible for the ~20-30 large diameter trees that were felled to have been subject to significant beaver damage when trees of the same type on the rest of the lakeshore have thrived (See Powerpoint attachment EchoLakeShorelineTrees), unless the owner intentionally recruited hungry beavers to eat his trees. Moreover, neither ELHA members nor a certified arborist who inspected the lakeshore trees have ever observed the classic large patches of exposed cambium on lakeshore trees on this property or other lakeshore properties.</p>	<p>2-E) Staff from GA EPD, DeKalb County and the Army Corps of Engineers have visually seen the damage cause by the beavers. Photographs showing this condition were supplied by the applicant with the original application to stabilize the shoreline. It is irrelevant whether the damage to the trees occurred within the past recent months or years in this regard. The fact that trees are damaged by beavers along the lakeshore cannot be disputed no matter what beavers typical eating habits are (maybe someone should tell the beavers that they don't eat mature pine trees or issue them a citation for disturbance within the 25-foot state tributary buffer).</p>

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<p>Finally, the "sudden death" of beaver-damaged trees that Adams implies is not consistent with the usual, prolonged slow death of a beaver damaged tree that takes several years. Lakeside owners know that Georgia beavers favor young, small, deciduous sweet gum, ash, willows, poplar, cottonwoods, fruit trees, nonconiferous shrubs, ferns, aquatic plants, and grasses that are plentiful along the lakeshore; presented with these preferred food sources, they are highly unlikely to chew on the trunks of massive loblolly pines that dominate the applicant's lakeshore. They also know that simple wire screening can protect trunks and shrubs. In contrast, the applicant never installed any protective screening on his lakeshore trees since his occupancy, indicating disregard for the value of these trees and vegetation that protects the stream buffer and poor stewardship of his wooded property.</p>	

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<p>F) Gaddy falsely claims that "two trees have fallen into the lake" and that "approximately nine trees along the lake edge are in danger of falling into the lake. The trees shown as being removed on the shoreline stabilization plan are not suitable species for a wet conditions soil. The tree roots of those trees at the lake edge have experienced wave erosion exposing the tree roots." In fact, these two trees had thrived for decades until the applicant intentional removed more than 20 deeply rooted, soil-stabilizing trees, ground their stumps with heavy equipment, and removed stabilizing, absorptive understory plants and native ground cover adjacent to these two trees. This vegetative stripping and the house construction practices used over two years weakened the soil matrix, and caused excessive compaction, trenching and filling of soil around tree bases. These insults added to the loss of vertical wind break protection from neighboring trees made the canopies of the remaining 2 "edge trees" more vulnerable to windthrow. (See https://en.wikipedia.org/wiki/Sediment_transport and http://woodlandsteward.squarespace.com/storage/past-issues/windaffe.htm). (See attachment 2267EchoTrailBeforeAfterStreamBuffer showing buffer before and after clear cutting and stump removal and grinding.) In contrast, all other lakeside owners have successfully maintained healthy stands of coniferous and nonconiferous trees along their lakeshores, even along a wet lakeshore because of sound tree preservation practices. (See Powerpoint attachment EchoLakeShorelineTrees) For example, when thinning stands during construction, these owners have complied with county tree ordinance and applied the best practice of saving groups of trees to promote tree survival. (http://www.extension.umn.edu/garden/yard-garden/trees-shrubs/protecting-trees-from-construction-damage/#tree-removal)</p>	<p>2-F) The two submerged trees were removed from the lake with approval of the DeKalb County Arborist prior to the rescission of stream buffer variance by GA EPD on September 17, 2015. These trees were to be removed as part of the shoreline stabilization project and were in the lake many years before any construction activity occurred on this property. Trees along the lakeshore have clearly grown at an angle over the water surface and as complainant indicates have experienced wave erosion exposing the trees roots adjacent to the lake. An adequate re-vegetation plan to plant suitable tree species for this environment has been submitted with this application.</p>

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<p>G) Adam's claims that pine trees along the lakeshore are leaning due to beaver damage are spurious. Beaver damage does not cause trees to lean. Leaning is due to natural, adaptive phototropism as whole trees turn toward sunlight near the center of the lake. Slow, phototropic movement is counterbalanced by development of long, stabilizing roots that deeply anchor trees in the lakeshore and deter falling throughout the life of the tree. (See Phototropism of Whole Trees: Effects of Habitat and Growth Form, Savannah River Ecology Lab, Aiken SC.) Moreover, a certified arborist who inspected lakeshore trees in spring 2015 confirmed that pines on the Echo Lake shoreline are not infested with Southern pine beetles.</p>	<p>2-G) Complaint is irrelevant. Complainant does not dispute the fact that the trees are not suitable for the wet conditions or that the trees have a severe lean and the majority of the trees are damaged by beavers. A replanting plan has been submitted and previously approved by GA EPD for the shoreline stabilization project. An attempt to maintain unsuitable tree species during the Gabion Wall Installation is ludicrous.</p>
<p>H) Adams' opinion "the trees indicated for removal on the shoreline restoration plan will die and eventually fall into the lake or become a hazard as a snag" is spurious. He notes that "A snag is beneficial to the environment when public safety is not a concern, due to the habitat for wildlife and insects that the snag providers." Snags do not pose public safety threats to ELHA members who use the lake because high-speed motor boats are forbidden and the low water depth and high turbidity prevents scuba diving. In fact, most ELHA members value snags because they improve fish habitat and provide perches for herons, egrets, hawks, wood ducks, turtles, and otters. The good fishing and wildlife habitat motivated many lakeside homeowners to pay high sums for their homes and they want to preserve water and habitat quality to maintain their property values and enjoyment.</p>	<p>2-H) Complainant ignores individual's rights to maintain their property as they see fit. Complainant acknowledge shallow depth of existing lake and desires that trees remain and fall into the lake to provide aquatic habitat ignoring the use of shallow draft boats by many on the adjoining owners along lake. A replanting plan has been submitted and previously approved for the shoreline stabilization project.</p>
<p>I) Adams makes a counterintuitive argument that "more damage to the environment will occur from a tree company having to repeatedly enter the rear yard to remove dead trees year after year, instead of removing all the trees that are unsuited for their growth environment at one specific time and then the implementation of a planting plan suitable for the environment." It is foolish to practice preemptive felling of trees that have thrived and successfully stabilized this wet lakeshore since 1958 to aid future felling of trees on the lakeshore or higher up the slope!</p>	<p>2-I) Applicant disagrees with complainant's logic in this matter. Applicant mentions that trees have survived in this area since 1958. There are no trees on the property that are 57 years old. The largest tree in the environment is a 26" diameter pine that has been girded by beavers.</p>
<p>J) Given these many concerns, we urge EPD to consider the possibility that the professional opinions submitted with this application could represent false certifications of site conditions that do not comply with professional practice standards.</p>	<p>2-J) A site visit by GA EPD staff has confirmed the conditions represented in the stream buffer variance application. The complainant's opinion of the two professionals providing opinions and construction plans is irrelevant.</p>

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<p>3. Echo Lake is owned by ELCC and the applicant does not have legal access to the lakeshore below his property line that would be required to install the proposed temporary curtain wall or install, repair, or maintain a permanent seawall; any intrusion on the ELCC-owned lake and lakebed would constitute trespassing and pose unacceptable legal liability to ELCC and ELHA.</p> <p>A) The applicant's property title registered by DeKalb County does not include the low water mark in which the seawall would need to be embedded. Installation above this point would require excavation of the existing lakeshore, and cause gross destruction of the water buffer.</p> <p>B) ELCC owns the lake and ELHA pays for insurance and aquatic services (water quality testing, aeration, dredging, etc) from annual dues (up to \$600 per year for lakeside owners) and special assessments paid by members. Dredging alone costs from \$20,000-\$200,000 per episode, not including hundreds of volunteer hours of ELHA board officers and members to obtain permits, oversee dredging contractors, organize removal of spoils, etc. The applicant does not have legal access to the lake at this time because he is not a member in good standing of ELHA for two reasons: 1) he failed to pay ELHA dues for at least 2 years after he purchased this property 2) has failed to respond to a formal request to by the ELHA board to remove a dangerous, illegally sited floating boathouse from Echo Lake. As per EPD regulations, all permits for seawalls are contingent on meeting all other legal requirements for installation; at this time, the applicant cannot meet the requirement for legal access. Additionally, if the applicant failed to pay ELHA dues in the future, he would not have legal access to the lake to maintain or repair the seawall in perpetuity.</p>	<p>3-A) Each individual along the lake is responsible for maintaining his portion of the shoreline. The Army Corps of Engineers has approved the placement of materials within the waters of the United States. Homeowner's Association approval that excludes individuals based on religious or ethnic background (or individual prejudices) border on bigotry and even possible legal action. Response to accusations continued below in 3-B.</p> <p>3-B) Applicant has provided checks for homeowners' dues during Homeowners Association meetings for the past two years. The Homeowners Association has refused to deposit these checks. The only pre-requisite for membership is ownership of property along the lake, which Applicant obviously satisfies. Complainants mentions the dredging of the existing lake. The placement of the last dredging was in the upper limits of the lake along Briarcliff Road. No vegetative planting or tree replacement occurred in this area. Applicant wonders if a valid stream buffer variance was obtained for this disturbance. Applicant proposes to re-establish a portion of the original lot lost due to streambank erosion and reclaim a portion of property, which is rightfully due him.</p>

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<p>C) Installation of gabion baskets or the temporary curtain wall will likely require temporary lowering of the lake water level. As the applicant is not an ELHA member in good standing, he does not have the right to request this privilege.</p> <p>D) Installation of the temporary curtain wall and permanent sea wall, including removal of obstructive boulders, logs, stumps, and vegetation, lakebed trenching, or lakeshore excavation would require access to the lakebed and water well beyond the applicant's low water mark and would cause enormous sedimentation and disturbance of ELCC-owned property. This excavation and installation process is also highly dangerous because it would require workers to hold electric chain saws and winches, heavy crowbars, and sharp objects while submerged in the water or lakebed silt. Indeed, on August 29, 2014, ELHA members witnessed crews wearing waist-level wading gear excavating huge logs, stumps, rocks, and tore out extensive vegetation, ostensibly to prepare the lakebed for seawall installation while holding electric chain saws, cables, and levers (See attachment BufferheavyEquipmentEncroachment). ELHA members immediately complained by phone to county employee Greg Hubbard about both worker hazards and trespassing on ELCC-owned water and lakebed; he replied that this precarious situation was the "fault" of ELHA members who insisted on compliance with state water buffer regulations that only allow use of hand tools, instead of more efficient mechanical ditch diggers and excavators. Additionally, workers who trespass on Echo Lake are not protected by ELHA's hazard insurance policy that only covers accidents of ELHA members in good standing and their accompanied guests. This precarious, accident-prone installation process places ELCC and/or ELHA at high risk of lawsuits that could incur high legal fees and hundreds of uncompensated hours of ELHA board officials or members to defend.</p>	<p>3-C) A Gabion Basket Design was chosen due to the fact that work in the existing lake would be needed, since no cooperation with the Homeowners Association would be provided. Applicant would have much preferred installation of a concrete modular reinforced earth wall system for aesthetics.</p> <p>3-D) The two submerged dead trees were removed with notification and review by the DeKalb County Arborists between the August 4, 2015 original stream buffer variance approval and the September 17, 2015 rescission by GA EPD. The trees have been removed from the property and should no longer be a point of contention. Please note the date stated in the complaint should be 2015 (not 2014). A temporary curtain wall is being utilized to prevent cloudiness from leveling beneath the Gabion Basket from entering the lake – this activity would seem to be superfluous based on proposed dredging activities proposed by the Homeowners Association as mentioned in previous complaints. The contractor installing the shoreline protection will have his own general liability insurance.</p>

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<p>4. The applicant never sought approval for installing a seawall of any type from the ELHA Board of Directors, the entity that represents the ELCC which owns and operates the lake. He may have also failed to obtain necessary approvals for a rock gabion seawall from the Army Corps of Engineers (ACE) that regulates discharge and fill into US waters.</p> <p>A) The applicant never sought approval from the ELHA Board for installing a gabion seawall (or future maintenance and repair) that would intrude on ELCC-owned lake and lakebed to install, maintain, or repair a rock gabion seawall. This demonstrates that he has not considered potentially adverse impacts of the seawall on ELCC or other lakeside property owners. These including increased reflective wave action from the seawall to other properties, increased sedimentation during installation and/or repair that may reduce water depth essential for aquatic life and boat navigation, increased pesticide/fertilizer pollution due to proposed replanting with sod along the lake edge, harm to fish and wildlife habitats, reduction of lakeshore shade, and reduction of appraised and resale values of nearby properties owing to degraded views of unsightly, industrial gabion wall. (Note: due to the steep grade of the lakeshore slope, the applicant would not see the seawall from his home.)</p> <p>B) The November 2014 letter from the ACE (See attachment "Corpsletter") notes ACE's provisional approval for rip rap bank stabilization that was contingent on obtaining other approvals from other governmental authorities, including EPD. However, ELHA members are not aware that ACE granted provisional approval for the rock gabion seawall for which he is seeking a variance from EPD.</p>	<p>4-A) Applicant disagrees with Homeowners Association's right to deny approval based on unsubstantiated reasons and prejudices. Applicant further exerts his rights to maintain his portion of the lake's shoreline and re-establish a portion of this property lost to shoreline erosion.</p> <p>4-B) The Corps of Engineers issued a revised letter, dated: January 21, 2016 authorizing the use of Gabion Baskets for the shoreline stabilization of Echo Lake at 2267 Echo Trail.</p>

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<p>5. The applicant is fully capable of restabilizing the water buffer using EPD's "preferred" method of revegetation with native plants without installing a seawall.</p> <p>A) EPD's "preferred" mitigation method to restabilize water buffers is extensive revegetation with native trees and plants, and if this is not possible, soil bioengineering methods (e.g. live staking, fascines, vegetated geogrids, brushmattress). (See EPD's manual, Streambank and Shoreline Stabilization – Techniques to Control Erosion and Protect Property.) EPD classifies rock gabions, bulkheads, and seawalls as "discouraged practices" because they produce sterile, vertical, flat-faced objects of little use to aquatic organisms and wildlife and tend to reflect wave energy rather than dissipate it, resulting in erosion problems along shorelines of other property owners. Revegetation would directly mitigate the applicant's clear cutting and would be fully consistent with the county's previous requirement for the applicant to revegetate the lakeshore with trees and vegetation (see item # 1 above). Moreover, replanting does not require the applicant or his workers to trespass on ELCC-owned property to install, maintain or repair a seawall; avoids a noisy, unsightly, and dangerous installation process that could further harm the water buffer, the lake waters and lakebed, and wildlife. Revegetation would also help restore the natural beauty of this long lakeshore that, in turn, would improve the property values of the applicant and other property owners, and maintain property tax revenues to government agencies.</p>	<p>5-A) Applicant has sought to provide the least intrusive stabilization method while maintaining the existing characteristics of the residential use of the lake. Many of the existing homes have cross-tie timber walls that are in need of replacement along the shoreline. Several properties have either poured concrete, concrete block or rock walls at the shoreline of Echo Lake. Placements of a 3-foot wide rock filled Gabion Basket in lieu of excavation of approximately eight feet along the shoreline to provide a rock stabilization zone is far more in compliance with the intent of EPD and Corps of Engineers guidelines while maintaining the character of the existing lake in an urban environment.</p>

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<p>B) A restabilization plan using only vegetation is consistent with other decisions about intrusion on this state water buffer and would therefore avoid citizen complaints to State EPD or its county local issuing authorities about inconsistent enforcement of state water buffer regulations. Specifically, when the ELHA board sought a permit to dredge sediment from the southern lakeshore to maintain adequate flood control capacity, protect water quality and habitat, and prolong the lifespan of the lake, county officials required use of huge, moveable wooden pallets to protect the soil from dredging rig treads and double silt fences and vegetative cover to control erosion and sedimentation; and prohibited removal of lakeshore trees or bushes, even though removal would have greatly hastened the dredging process and reduced the duration of odorous fish kills, stalled sales of lakeside properties, and loss of recreational use. (Consult archived county records on this approval, inspection and compliance history.) Inspectors from several government agencies visited numerous times during the project period to ensure compliance. If state EPD approved the applicant's plan for highly disruptive excavation and removal of stabilizing boulders and vegetation, this would constitute preferential treatment of the applicant to reduce his project cost, effort, and timeline.</p>	<p>5-B) There is no logic to support Complainant's request for vegetative stabilization only. The existing shoreline has moved a minimum of five feet into the subject property, since 1958 with the existence of vegetation only. The existing pine trees along the shoreline are damaged from beavers and those not damaged will eventually fail due to the nature of the species in a wet environment.</p>

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<p>6. ELHA members are concerned that the applicant's <u>actual intent</u> to install a seawall is to enable installation of an in-ground lakeshore pool and/or extend the acreage of his property, not his <u>claimed intent</u> to restabilize the buffer.</p> <p>A) Within the last 12-18 months, the applicant installed a septic tank along this lakeshore when his attempt to covertly install a forced main sewer without a permit was denied by government officials. (See attachment ELHA2267EchoTrailSewer and Violationsat2267EchoTrail2011 regarding prohibition of sewer main for which applicant never obtained a permit.) On October 14, an ELHA member learned that Alan Gaines of DeKalb County Board of Health, denied the applicant's request for a permit to install an in-ground pool on this lakeshore slope because the proposed pool location failed to meet the minimum 50 ft setback from his lakeshore septic system. However, this prudent denial does not preclude the possibility that the applicant might submit a revised permit application for a smaller pool or water feature (that might meet requirements for setback from the septic and the stream buffer) or covertly expand his lakeshore acreage to allow more room for his proposed in-ground pool, i.e., install a seawall outside his property lines (that would constitute trespassing on ELCC-owned lake) and then backfill the gap with soil. Mr. Michael Berry of state EPD, and state documents, confirmed by phone to an ELHA member in summer 2015 that once a seawall is installed, neither the state nor county can regulate development of land above the seawall owing to a legal precedent related to a seawall on a large TVA lake still under dispute in Georgia courts. Thus, the presence of a seawall might allow the applicant to install an in-ground pool/water feature with no or limited government control or oversight. ELHA members strongly oppose installation of any large, lakeshore water structure that contains chemically treated water because it could harm Echo Lake if chemicals or saline were discharged into the buffer or lake during routine drainage, cleaning, or heavy storms.</p> <p>B) The owner's intentional clear cutting of the 335 foot lakeshore demonstrates that he has little understanding or esteem for the undisputed value of stable native soils and plants and mature, settled slope grades to maintain buffer stability, reduce sedimentation and erosion, foster healthy trees with large canopies and rich understory vegetation that provide lakeshore shade essential for fish; provide wildlife habitat, improve air cooling, buffer noise, and increase carbon sequestration. His restoration plan proposes large expanses of sod directly abutting the lakeshore that could harm the environment, as described above.</p>	<p>6-A) Applicant denies any wrong doing and asserts all approvals for construction for the structure and utility connections for the residence at 2267 Echo Trail were permitted and that proper inspections have occurred to allow his occupancy of the dwelling, since September 2014. Complainant appears to be more concerned with denying Owner's rights to utilize and maintain private property than correcting the existing erosion problem along the shoreline. Complainant states hearsay evidence of private conversations that are not applicable to the request to stabilize the shoreline of the subject property.</p> <p>6-B) A buffer restoration plan and vegetative plan for the entire area between the rear of the structure and shoreline using appropriate vegetation for the environmental conditions was included and made a part of the shoreline stabilization project. This plan was previously approved by GA EPD and accepted by DeKalb County Planning and Development Department. Applicant strongly denies removal of any protected trees or vegetation and further asserts that a conservative effort has been made to comply with DeKalb County's Environmental Ordinance. A tree assessment was performed with DeKalb County's Arborist, Mr. Greg Hubbard, to identify trees in poor health with a high likelihood of failure to remove the maximum of five trees per calendar year. All trees removed were outside the State 25-foot tributary buffer and should be irrelevant to the shoreline stabilization request. Complainant appears to have no capability of an unbiased review of existing conditions and lacks vision for a permanent correction of the problems that currently exist.</p>

Comment	Applicant Response
<p>7. The applicant's proposal for seawall installation is incomplete and may violate other county regulations or further destabilize the water buffer.</p> <p>A) The proposal does not specify the height, width, depth of the proposed seawall or the exact construction materials. If the applicant installed a seawall that covered the bare face of the "cliff" portion of the lakeshore (that is more than 10 feet high and extends more than 100 linear feet), this would result in a retaining wall of more than 4 feet in height. (See pages 13-18 showing "cliff" of left side of lakeshore in attachment 2267 EchoTrailPhotos.) A wall of this height would violate the county's zoning code that prohibits retaining walls higher than 4 feet and require walls that exceed 30" to have safety fencing. (http://planningdekalb.net/wp-content/uploads/2013/11/Residential-Site-Plan-CheckList.pdf) As per EPD regulations, EPD should not issue a permit for a seawall that would violate other laws or regulations, including county zoning regulations. (See mention of applicant's violation of county retaining wall regulations at another of his developments on Wegelia in attachment DeKalbLegalRulingReplanting.)</p> <p>B) The proposal does not include details about the exact location of the seawall in relation to the property lines or high or low water marks of the property as recently documented by a professional survey commissioned by the ELHA board for purposes of property tax documentation. If the state EPD does not have independent verification of the property lines in relation to the seawall installation by an independent surveyor who can monitor the entire proposed installation period, ELHA members believe that the applicant or his installers could intentionally or unintentionally violate property lines, expand the lakeshore acreage by backfilling the gap between the original shore and the seawall, and trespass on ELCC-owned property.</p>	<p>7-A) A three foot wide by three foot deep with varying lengths (up to six feet) is proposed to be installed along the shoreline at 2267 Echo Trail. Two foot of the rock filled basket will be below the normal water surface. This will require removal of 1.5 to 0.5 feet of sediment for level placement of the Gabion Baskets. Approximately 1-foot of #57 stone with a Geo-Textile Fabric will be used as a filter material to prevent soil migration through the Gabion Basket. The top of the Gabion Basket will be level with the adjacent grade along the majority of the shoreline with the potential of a maximum of 1.0 foot height differential from the adjacent grade. Applicant has no intentions on constructing walls of 4 to 10 feet in height as referenced in Complainants allegations.</p> <p>7-B) ELHA members have asserted claims of property ownership to the survey tie lines shown on the recorded final plat for Echo Lake Subdivision. This is not a valid claim. An accurate survey locating the existing edge of the lake, topographic conditions, existing trees and property lines has been prepared. The proposed Gabion Basket locations have been shown on this base drawing. Applicant proposes work along the shoreline which will stabilize the existing conditions and be entirely within the property limits of the original lot limits and shoreline of the Echo Lake Subdivision. The design intent is to approximate the back of the Gabion Basket within approximately 1-foot of the existing shoreline. This stabilization of the shoreline is far less than the estimated 5-foot loss of real estate from erosion into the lake.</p>

Comment	Applicant Response
<p>C) The proposal does not explain if installation will require lowering the lake level, trenching or other removal of earth or vegetation (tree roots, logs, plants) from the lake bed that would disturb the soil, impair water quality, threaten fish and wildlife habitats, or cause noise, pollution, or fish kills during the installation process. No plans for erosion controls or waste disposal are included. Installation of a temporary curtain wall and properly anchored, leveled gabion seawall would require excavating the lakebed and obstructive boulders, logs, stumps, vegetation, and soil, and may possibly require use of heavy equipment. This process would increase siltation, disturb the lakebed, and destroy fish and wildlife habitat. In this setting, siltation cannot be mitigated by silt fences or other measures and would result in accelerating the lake's already serious sedimentation problem that poses a heavy economic burden on ELHA members (as described above). Continuing this disturbance of the lakebed would further destabilize the buffer and lakeshore, make it more susceptible to erosion and sedimentation, degrade water quality, and harm aquatic flora, fauna, and habitat.</p> <p>D) The proposal does not describe the type of gabion (rock size and color, basket plastic or wire, or nature of "geo-textile fabric") that would affect capacity for revegetation and quality of views from other lakeside properties. Given that the applicant's architecture and landscaping preferences are highly inconsistent with the preferences of ELHA members, members worry that EPD approval of a gabion seawall would allow installing any type, including unsightly orange plastic cages filled with white rocks rise up to 15 feet high along 100+ linear feet of the lakeshore "cliff". (See pages 13-18 showing height of "cliff" of left side of lakeshore in attachment 2267 EchoTrailPhotos.)</p>	<p>7-C) ECHA members have informed applicant that they will provide no assistance in the shoreline stabilization project at 2267 Echo Trail. ELHA members have informed applicant that they will not allow a temporary lowering to the normal water surface. ELHA member have also informed applicant that they will delay the proposed lake dredging as long as possible to prevent any assistance to the applicant. The shoreline stabilization project would be simpler if the ELHA would afford applicant the same cooperation as extended to the remainder of the homeowners adjacent to Echo Lake. The project has been designed based on the lack of cooperation with ELHA.</p> <p>7-D) Complete details of the proposed Gabion Basket placement and descriptive narrative are included in the shoreline stabilization project. Complainant's prejudices are evident in the wording of this accusation in comments of potential "worries" that are not being proposed or a remote possibility of occurrence. Complainant provides a prejudicial opinion of the existing structure that is quite opposite of the reality of the quality of the 2-story with full basement "full brick" structure valued at 1.2 million that was constructed at 2267 Echo Trail. Complainant's opinion is irrelevant and based on prejudices and not applicable to the request being presented.</p>

Comment	Applicant Response
<p>8. The applicant's proposed mitigation planting plan is inadequate and may further threaten the health of Echo Lake.</p> <p>A) The applicant's proposed erosion and sedimentation plan does not include adequate erosion and sedimentation measures that meet or exceed the standards in the manual for Erosion and Sedimentation Control in Georgia: 1) The plan does not propose vegetative covering of the gabion that improves its erosion and sedimentation control properties, may increase lakeside shade, and hides its unsightly, industrial appearance. (See EPD's manual, Streambank and Shoreline Stabilization—Techniques to Control Erosion and Protect Property.) 2) The plan also proposes large sod expanses along the lake edge that may threaten water quality and habitat as described above.</p>	<p>8-A)</p> <p>The proposed vegetative plan has been prepared to re-establish both trees and plant materials suitable for the environmental conditions of the planting locations with respect to the characteristics of an urban environment. This plan has been previously approved by the GA EPD and County Arborist. The applicant believes that based on the wording of complaint that no vegetative plan could be prepared that would be acceptable to complainant. Vegetative covering and soil placement over a Gabion Basket is not appropriate. A Geo-Textile Fabric would be needed to prevent soil migration into the rocks and lake. The minimal amount of soil over the rock basket would not maintain plant growth.</p>

Comment	Applicant Response
<p>9. If the variance application were approved, ensuring compliance with the approved plan (zoning requirements regarding retaining wall height, property lines, trespassing, native plants, etc) over many weeks may unduly burden state and county officials.</p> <p>A) The applicant's history of ignoring or intentionally violating state or county environmental regulations regarding the forced main sewer, the county tree ordinance on this property, and buffer violations on other properties, demonstrate that he and his employees do not understand the rationale for these regulations or do not respect their legal authority to regulate his development proposals. It also suggests that this project may not be expected to perform as proposed, particularly if county and state officials cannot ensure meticulous inspection and permit enforcement throughout the entire project period (and thereafter if citizens complain of neglected maintenance). As such, this project may fail to meet the principles of "Accelerating the Transition to Performance": approve only EP&SC plans that EDP expects to perform, enforce new permits vigorously, and require frequent reporting of monitoring results (Building Metro Atlanta's Economy by Building Systems to Prevent Erosion, Dirt 2 Committee, https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/es_dirt2.pdf). This intensive inspection burden, and the obligation to respond to complaints of citizens who observe non-compliant installation practices and materials (e.g., trespassing into private lake waters, planting non-approved exotic vegetation), may pose a heavy cost and labor burden on government officials, detract from more important sedimentation and erosion concerns in the state, and force ELHA members to constantly monitor and report noncompliant activity.</p>	<p>9-A) Applicant denies allegation of wrong doing. Evidence is opposite of claims presented. Even after repeated erosion control inspections during house construction due to ELHA member's complaints to county personnel, no erosion control violations or citations have been issued or substantiated. ELHA members have continued to utilize political contacts and persuasions to deprive applicant of his personal rights. Applicant has strived to be within his legal rights in the construction of his personal residence. Applicant has further strived to follow all laws by application to all jurisdictional authorities with a viable legal interest in this project. Approximately one-third of all the properties adjoining Echo Lake have some sort of shoreline stabilization; Applicant is unaware of a single GA DNR or Army Corps of Engineers authorization for any placement or repairs to any of these walls or improvements on other lake lots.</p>

Comment	Applicant Response
<p>10. Approving this seawall installation under a variance process would set an adverse precedent that may encourage other lakeside owners to seek seawall installation, further threaten the lake and water buffer, and burden state and county officials with variance applications.</p> <p>In closing, we want to highlight two contextual factors that should inform EPD's decision.</p> <p>First, a special investigation of DeKalb County government recently completed by former state attorney general Mike Bowers concluded that the government, including the Planning and Sustainability Department that serves as local issuing authority for EPD's state water buffer regulations, is "rotten to the core" and that many county government staff have committed ethical violations (http://news.wabw.org/post/report-calls-dekalb-county-government-rotten-core). These include accepting illegal payments or loans; making decisions on matters in they have a conflict of interest; and making decisions about permit applications, technical assessments, or other rulings concerning individuals or businesses that offered county employees current or future employment, contracts, or other financial favors. We trust that EDP will consider this report when assessing the veracity of judgements and statements of county employees involved in this variance application and related inspections.</p> <p>Second, the applicant has a history of stream buffer regulations on this lake for which he has incurred a substantial fine and remediation requirements. (See attachment PastBufferFineonEchoLake.) However, he may regard fines as a trivial "cost of doing business" and may prefer to pay fines than to execute a mandated buffer revegetation. If the variance application is denied, we trust that the state and/or county officials regulating this water buffer that mandates a major revegetation plan, and if the applicant refuses to execute this, consider highly punitive fines and/or place an environmental lien on the property that would preclude additional development or sale of the property in the future. Although it is possible that professionals contributing to this variance application may have misrepresented or falsely certified site conditions to favor a variance ruling that might yield later construction or landscaping business, these individuals could also profit from participating in a prudent, ecologically sound buffer revegetation plan that the state EPD mandates and monitors.</p>	<p>10-A)</p> <p>Applicant concurs with the statements made by complainant in regards to the multiple problems within the elected officials and isolated instances of county employer bribes and graft. Applicant is pleased to have a long standing business that frequently works with DeKalb County Development and Environmental staff and has never encountered any such individuals nor would he support such activities. These accusations and charges are irrelevant in this matter. The inclusion is either slanted to imply impropriety on the part of applicant or on staff reviewing said project; any accusation is vehemently denied.</p> <p>The violation referred to in paragraph 2 of complaint was a misunderstanding and unfortunate instance not applicable to the subject project. For the record, applicant was informed by Mr. Hari Karikaran, Deputy Director of Planning & Development that hand removal of evasive vegetative species was allowed between the State 25-foot tributary buffer and the County 75-foot tributary buffer on project not related to the subject property. Mr. Karikaran failed to adequately explain that the homeowner could do such after the issuance of a certificate of occupancy; however, the builder was not allowed to do such during a current building permit. It is amazing that no violation would have been issued if work had occurred three weeks after it actually took place (after the certificate of occupancy was issued). The accusations levied or imposed by complainant may be more appropriate towards the ELHA members than any other group or individuals. The ELHA has continued to exert political pressure to deprive property rights for re-development of residential lots around Echo Lake. Applicant is one of many property owners that have taken advantage of the prime location of this subdivision to remove an antiquated ranch style home to a larger more modern residence.</p>

BV-044-15-05

Applicant's Responses to Comments

01-29-2016

Comment	Applicant Response
<p>In summary, the applicant has destroyed with impunity the state water buffer of this property over the last two years. In so doing, he has destroyed a natural, idyllic lakeshore that featured a rich woodland that had successfully stabilized the lakeshore and prevented harmful erosion and sedimentation into Echo Lake for more than 5 decades. The State EPD should deny the variance application for a seawall and should ensure that the lakeshore is restabilized using only with native trees, understory vegetation, and ground cover, in a manner that is consistent with state and county regulations.</p>	<p>Existing conditions around the lake and at the subject property are contrary to complainant's statements. The project will correct existing problems and permanently stabilize the shoreline for generations to come.</p>

BV-044-15-05

Applicant's Responses to Comments

01-29-2016

Comment	Applicant Response
<p>Please consider my request that you privilege State of GA EPD Streambank Stabilization Guidelines and ask the LIA to proceed with a closely monitored plan for re-vegetation with Native species. From my point of view of as a homeowner and resident, I struggle to understand how seasonal beavers and a steep slope equate with an urgent necessity to drop State of GA EPD Best Practices and go straight to GA EPD Discouraged Practices: To build a wall, requested by a builder.</p>	<p>Complainant appears to have lost focus on the benefits of the proposed project. Applicant requests that GA EPD evaluate based on the merits of the subject project and documents submitted.</p>

BV-044-15-05

Applicant's Responses to Comments

01-29-2016

Comment	Applicant Response
<p>Mr. Fred Milani is listed by State of GA Secretary of State Corporations as Agent for Milani Homes, Inc. He is a General Contractor: Milani Homes, Inc: 1510 Oak Grove Rd. Suite 2, Decatur GA 30033. Also, would a builder be allowed to apply for a variance, if were not his primary residence?</p> <p>Mr. Fred Milani applies as owner of 2267 Echo Trail Atlanta, GA 30345. Is he the owner of the property? All 2010---2015 Dekalb County Property Records for 2267 Echo Trail--- Owner and Co---owner: MLH Homes, LLC. 1510 Oak Grove Rd. Suite 2 Decatur GA 30033. (Property Records show "No Homestead Exemption" and "Corrected Deed.")</p> <p>**Is it urgently necessary to grant a variance to a builder, over the objections of homeowners?</p> <p>**Are you aware that the wall described in the application for a variance will be visible to many Echo Lake homeowners, but not to the occupants of 2267 Echo Trail?</p>	<p>Mr. Milani is the owner and resident of 2267 Echo Trail. Mr. Milani is also a licensed general contractor and built the residential structure under his legal business. Denial of application based on applicant's profession or the fact that he built on the subject property for his personal use is absurd.</p>

Applicant's Responses to Comments

01-29-2016

Comment	Applicant Response
<p>Please reject this variance for the following reasons:</p> <ul style="list-style-type: none"> • Mr. Milani deliberately removed trees in the 25-foot buffer and had a stump grinding machine grind up the stumps. • Mr. Milani poisoned the ground cover to the water line (except for about 15 feet of ivy on the steepest part of the southern border) • I have been a member of Echo Lake Community Club since 1971 and have never observed any shore erosion on this property. In other words, the natural cover of the site had prevented erosion and there was no need for a gabion basket seawall. • This is an obvious violation of the 25-foot buffer rules caused by Mr. Milani and he should not benefit by being permitted to place his desired sea wall after damaging the natural shoreline intentionally. • A Great Heron habitually nested in the trees on the point of land that he removed and they no longer nest there. <p>Please deny the request and require Mr. Milani to replace the mature trees and ground cover that he removed from the site.</p>	<p>Conditions evident along the shoreline do not support complainant's request. No stumps have been ground within the tributary buffer. The only trees that have been removed were those that had fallen into the lake. These trees were removed after the original August 4, 2015 approval by GA EPD and prior to the September 17, 2015 recession of approval by GA DNR. All work ceased upon notification of recession by GA DNR. Applicant denies unauthorized disturbance of the State 25-foot tributary buffer. Protected migratory birds were considered and determined by the Army Corps of Engineers as unaffected by the subject project. For the record, no nesting sites are noted on the subject property and the species Ardea Herodias (Great Blue Heron) is not on the Fish and Wildlife's protected migratory bird list.</p>

BV-044-15-05

Applicant's Responses to Comments

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Comment	Applicant Response
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Applicant's Responses to Comments

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Comment	Applicant Response
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Applicant's Responses to Comments

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DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
1590 ADAMSON PARKWAY, SUITE 200
MORROW, GEORGIA 30260

REPLY TO
ATTENTION OF:

JAN 21 2016

Regulatory Division
SAS-2014-00785

Mr. Fred Milani
Milani Homes, Incorporated
1510 Oak Grove Road
Decatur, Georgia 30033

Dear Mr. Milani:

I refer to the Pre-Construction Notification received on January 13, 2016, requesting verification for use of Nationwide Permit (NWP) No. 13 (NWP 13) for the discharge of fill material (gabion baskets) along 347 linear feet (0.03 acres) of the banks of Lake La Lera/Echo Lake in conjunction with your bank stabilization project. Approximately 0.26 cubic yards per running foot is proposed for the shoreline stabilization. This replaces a previous permit issued on November 17, 2014 for the placement of 370 linear feet of riprap, which is no longer a valid permit. The project site is located at 2267 Echo Trail, Atlanta, DeKalb County, Georgia (latitude 33.8504, longitude -84.2874). This request was submitted on your behalf by Gaddy Surveying and Design, Incorporated. This project has been assigned number SAS-2014-00785 and it is important that you refer to this number in all communication concerning this matter.

A preliminary jurisdictional determination (JD) was completed for the site on November 13, 2014 by Corps regulatory specialist Maya B. Odeh-Adimah. This preliminary JD presumes that all of the aquatic resources identified in the review area are subject to Corps of Engineers' jurisdiction under the Clean Water Act.

Preliminary JDs are advisory in nature and may not be appealed (see 33 Code of Federal Regulations 331.2). If you are not in agreement with this preliminary JD, then you may request an approved JD for your project site or review area.

On December 18, 2015 we completed coordination with other federal and state agencies as described in Part C (31)(d) of our NWP Program, published in the February 12, 2012, Federal Register, Vol. 77, No. 34, Pages 10184-10290 (77 FR). The NWPs and Savannah District's Regional Conditions for NWPs can be found on our website at <http://www.sas.usace.army.mil/Missions/Regulatory/Permitting/GeneralPermits/NationwidePermits.aspx>. During our coordination procedure, no adverse comments regarding the proposed work were received.

As a result of our evaluation of your project, we have determined that the proposed activity is authorized by the Corps under NWP 13, as described in Part B of the NWP Program. Your use of this NWP is valid only if:

a. The activity is conducted in accordance with the information submitted and meets the conditions applicable to the NWP, as described at Part C of the NWP Program and the Savannah District's Regional Conditions for NWPs.

b. You shall obtain and comply with all appropriate federal, state, and local authorizations required for this type of activity. A stream buffer variance may be required from the Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD), as defined in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Information concerning variances can be obtained at the Georgia EPD's website at www.epd.georgia.gov or by calling (404) 463-1151.

c. All work conducted under this permit shall be located, outlined, designed, constructed and operated in accordance with the minimal requirements of the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Utilization of plans and specifications contained in the "Manual for Erosion and Sediment Control," (Latest Edition), published by the Georgia Soil and Water Conservation Commission, will aid in achieving compliance with the aforementioned minimal requirements.

d. You shall install and maintain erosion and sediment control measures in upland areas of the project site, in accordance with the Georgia Erosion and Sedimentation Control Act of 1975, as amended, to minimize the introduction of sediment into and the erosion of streams, wetlands and other waters of the United States. This permit does not authorize installation of check-dams, weirs, riprap, bulkheads or other erosion control measures in streams, wetlands or other waters of the United States. Authorization would be required from the U.S. Army Corps of Engineers prior to installing any erosion control measures in waters of the United States.

e. You shall install and maintain erosion and sediment control measures for all fill material that is authorized to be discharged in streams, wetlands and other waters of the United States, in accordance with the Georgia Erosion and Sedimentation Control Act of 1975, as amended, and permanently stabilize fill areas at the earliest practicable date.

f. You shall notify the Corps, in writing; at least 10 days in advance of commencement of work authorized by this permit.

g. You fill out and sign the enclosed certification and return it to our office within 30 days of completion of the activity authorized by this permit.

This proposal was reviewed in accordance with Section 7 of the Endangered Species Act. Based on the information we have available, we have determined that the project would have no effect on any threatened or endangered species nor any critical habitat for such species. Authorization of an activity by a NWP does not authorize the "take" of threatened or endangered species. In the absence of separate authorization, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. See Part (C) of 77 FR for more information.

This verification is valid until the NWP is modified, reissued or revoked. All of the existing NWPs are scheduled to expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWPs. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

This authorization should not be construed to mean that any future projects requiring Department of the Army authorization would necessarily be authorized. Any new proposal, whether associated with this project or not, would be evaluated on a case-by-case basis. Any prior approvals would not be a determining factor in making a decision on any future request.

Revisions to your proposal may invalidate this authorization. In the event changes to this project are contemplated, I recommend that you coordinate with us prior to proceeding with the work.

This communication does not relieve you of any obligation or responsibility for complying with the provisions of any other laws or regulations of other federal, state or local authorities. It does not affect your liability for any damages or claims that may arise as a result of the work. It does not convey any property rights, either in real estate or material, or any exclusive privileges. It also does not affect your liability for any interference with existing or proposed federal projects. If the information you have submitted and on which the Corps bases its determination/ decision of authorization under the NWP is later found to be in error, this determination may be subject to modification, suspension, or revocation.

A copy of this letter is being provided to the following party: Mr. Tom Child, Marine Specialties, Incorporated, 4105 Browns Bridge Road, Gainesville, Georgia 30504; Mr. Frank Gaddy, Gaddy Surveying and Design, Incorporated, 1215 Pleasant Hill Road NW, Lawrenceville, Georgia 30044.

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Thank you in advance for completing our on-line Customer Survey Form located at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. We value your comments and appreciate your taking the time to complete a survey each time you have interaction with our office.

If you have any questions, please call me at 678-422-6571.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stacy Marshall', is written over the typed name.

Stacy Marshall
Regulatory Specialist, Piedmont office

Enclosures

Regulatory Division

CERTIFICATION OF COMPLIANCE
WITH
DEPARTMENT OF THE ARMY
NWP 13

PERMIT FILE NUMBER: SAS-2014-00785

PERMITTEE ADDRESS: Mr. Fred Milani, Milani Homes, Incorporated, 1510 Oak Grove Road, Decatur, Georgia 30033.

LOCATION OF WORK: 2267 Echo Trail, Atlanta, DeKalb County, Georgia (latitude 33.8504, longitude -84.2874).

PROJECT DESCRIPTION: The discharge of fill material (gabion baskets) along 347 linear feet (0.03 acres) of the banks of Lake La Lera/Echo Lake in conjunction with a bank stabilization project.

ACRES AND/OR LINEAR FEET OF WATERS OF THE UNITED STATES IMPACTED: 347 linear feet (0.03 acres) of the banks of Lake La Lera/Echo Lake

DATE WORK IN WATERS OF UNITED STATES COMPLETED:

COMPENSATORY MITIGATION REQUIRED: no

DATE MITIGATION COMPLETED OR PURCHASED (include name of bank): N/A

I understand that the permitted activity is subject to a U.S. Army Corps of Engineers' Compliance Inspection. If I fail to comply with the permit conditions at Part C of the Nationwide Permit Program, published in the February 12, 2012, Federal Register, Vol. 77, No. 34, Pages 10184-10290, it may be subject to suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit as well as any required mitigation (if applicable) has been completed in accordance with the terms and conditions of the said permit.

Signature of Permittee

Date